

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MR. JAMES H. LESAR
1231 Fourth Street, S.W.
Washington, D.C. 20024

GESELL, J.

Plaintiff,

v.

CENTRAL INTELLIGENCE AGENCY
Washington, D.C. 20024

Defendant

Civil Action No. _____

84-2891

SEP 17 1984

COMPLAINT FOR INJUNCTIVE RELIEF

[Preliminary and Permanent Injunction; Freedom of Information Act, 5 U.S.C. § 552; First Amendment]

1. Plaintiff brings this action under the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 93-502, 88 Stat. 1561 (93d Cong., 2d Sess.) and Public Law 94-409, 90 Stat. 1241 (94th Cong., 2d Sess.), and the First Amendment to the United States Constitution.

2. Plaintiff is James H. Lesar, a resident of the District of Columbia.

3. Defendant is the Central Intelligence Agency (CIA), an agency of the United States Government having possession and control of the records requested by plaintiff which are the subject of this action.

4. By letter dated June 28, 1983, plaintiff submitted a request to the CIA for records reflecting the impact which the

Goldwater-Thurmond bill (S. 1324) would have on pending Freedom of Information Act (FOIA) litigation against the CIA. He asked that his request be expedited so that the information could be used by those who wished to have an input into congressional consideration of S. 1324. (Exhibit 1)

5. By letter dated June 29, 1983, plaintiff sent the CIA a copy of a June 22, 1983 Washington Post article on the Goldwater-Thurmond bill which he had referred to in his request letter the previous day, but which he forgot to attach. (Exhibit 2)

6. By letter dated July 11, 1983, Mr. Larry R. Strawderman, Information and Privacy Coordinator, Central Intelligence Agency, acknowledged receipt of plaintiff's June 28, 1983 request. Mr. Strawderman stated, "We will be in touch with you concerning this request (F83-0597) in the near future." He added, "We recognize the sense of urgency as set forth in paragraph 3 of your letter." (Exhibit 3)

7. Plaintiff has received no further communication from the CIA regarding his June 28, 1983 request since he received Mr. Strawderman's letter of July 11, 1983 acknowledging his request and its urgency.

8. By letter dated August 24, 1984, plaintiff submitted a second request for materials pertaining to bills to amend the FOIA introduced in the 97th and 98th Congresses. (Exhibit 4) He asked that his request be expedited, noting that the information he sought was needed in connection with congressional con-

sideration of S. 1324 and H.R. 5164, and that H.R. 5164 would be voted on by the House of Representatives when it returned from its current recess.

9. Plaintiff has received no response to his August 24, 1984 request.

10. Plaintiff has exhausted his administrative remedies with respect to his June 28, 1983 and August 24, 1984 requests.

11. Plaintiff has a legal right under the Freedom of Information Act to obtain copies of the records he seeks and there is no legal basis for defendant's denial of said right.

12. Defendant's failure to provide the records requested by plaintiff has violated, and continues to violate, plaintiff's First Amendment right to receive information and to petition Congress regarding legislation pending before it.

WHEREFORE, plaintiff prays that this Court:

(1) enjoin defendant, preliminarily and permanently, from withholding from plaintiff the records he has requested;

(2) expedite the proceedings in this action as required by 5 U.S.C. § 552(a)(4)(B);

(3) grant plaintiff a waiver of search fees and copying costs as provided in 5 U.S.C. § 552(a)(4)(A);

(3) award plaintiff his costs and reasonable attorney's fees as provided in 5 U.S.C. § 552(a)(4)(E); and

(5) grant such other and further relief as the Court may deem just and proper.

James H. Lesar

JAMES H. LESAR

1231 Fourth Street, S.W.

Washington, D.C. 20024

Phone: 726-0404/646-0903

Attorney pro se

JAMES H. LESAR
ATTORNEY AT LAW
1000 WILSON BLVD., SUITE 900
ARLINGTON, VIRGINIA 22209
TELEPHONE (703) 276-0406

June 28, 1983

Mr. Larr R. Strawderman
Information and Privacy Coordinator
Central Intelligence Agency
Washington, D.C. 20505

Dear Mr. Strawderman:

The June 22, 1983 issue of the Washington Post carried an article by George Lardner, Jr. on a bill to amend the Freedom of Information Act ("FOIA") which has been introduced by Senators Barry Goldwater and Strom Thurmond. The article states that the bill should undercut more than half of the 77 FOIA suits pending against the CIA. (A copy of this article is attached hereto.)

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, I hereby request copies of any and all documents which reflect the impact which the Goldwater-Thurmond bill would have on pending FOIA litigation against the CIA.

I ask that you expedite this request. The information which I seek is needed in connection with congressional consideration of the Goldwater-Thurmond bill. If it is to be useful to those who wish to have an input into congressional consideration of the bill, it must be released soon.

I further request a waiver of search fees and copying costs for such records. Release of these records would "primarily benefit the general public" by informing the public of the CIA's judgment as to the effect the proposed bill is expected to have if enacted.

Sincerely yours,

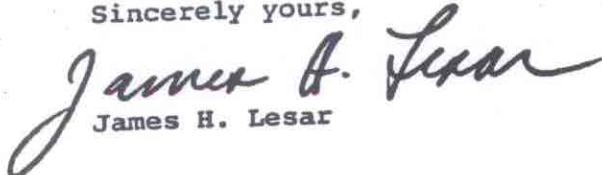

James H. Lesar

Exhibit 1

JAMES H. LESAR
ATTORNEY AT LAW
1000 WILSON BLVD., SUITE 900
ARLINGTON, VIRGINIA 22208
TELEPHONE (703) 276-0404

June 29, 1983

Mr. Larry R. Strawderman
Information and Privacy Coordinator
Central Intelligence Agency
Washington, D.C. 20505

Dear Mr. Strawderman:

Enclosed is the June 22, 1983 Washington Post article which I forgot to attach to my yesterday's letter to you.

Sincerely yours,

James H. Lesar
James H. Lesar

Exhibit 2

CIA Seeks To Avoid File Scrutiny

By George Lardner Jr.
Washington Post Staff Writer

The CIA campaigned on Capitol Hill yesterday for what it described as a modest "compromise" that would put all of its operational files beyond the reach of the Freedom of Information Act.

What constitutes an "operational" file would be determined by the director of the CIA and, according to CIA officials at least, such designations would not be subject to court review.

The CIA's deputy director, John N. McMahon, and a contingent of high-ranking colleagues from Langley testified enthusiastically in favor of the proposal at a hearing before the Senate Intelligence Committee yesterday afternoon.

"We have struck an arrangement that borders on acceptability in CIA," McMahon said of the bill, which has been introduced by Intelligence Committee Chairman Barry Goldwater (R-Ariz.) and Senate Judiciary Committee Chairman Strom Thurmond (R-S.C.).

He said he would still prefer a "total exemption" for all the agency's files, but he said the agency was willing to settle for something that he said would comport "with the spirit" of the freedom of information statute.

The CIA's deputy general counsel, Ernest Mayerfeld, said the proposal also should undercut more than half of the 77 FOIA lawsuits pending against the agency for denying records under the current law. Mayerfeld predicted that 22 of the lawsuits would be dismissed outright and most of the documents sought in 24 other cases would be taken out of reach.

The bill, which would be retroactive, would enable the CIA to refuse even to search the "operational files" in the agency's directorate of operations; the directorate of science and technology and office of security.

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

11 JUL 1983

James H. Lesar, Esq.
1000 Wilson Boulevard
Suite 200
Arlington, VA 22209

Dear Mr. Lesar:

This acknowledges receipt of your letter of 28 June 1983 which we received on 1 July and which concerns a Freedom of Information Act request to this Agency.

We will be in touch with you concerning this request (F83-0597) in the near future. We recognize the sense of urgency as set forth in paragraph 3 of your letter.

Sincerely,

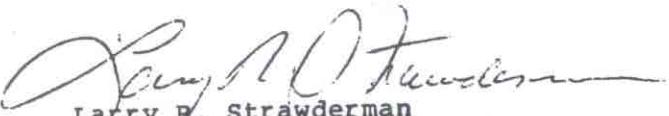

Larry R. Strawderman
Information and Privacy Coordinator

Exhibit 3

FREEDOM OF INFORMATION ACT REQUEST

JAMES H. LESAR
ATTORNEY AT LAW
1231 FOURTH STREET, S.W.
WASHINGTON, D.C. 20024
TELEPHONE (202) 646-0903

August 24, 1984

Mr. Larry R. Strawderman
Information and Privacy Coordinator
Central Intelligence Agency
Washington, D.C. 20505

PLEASE EXPEDITE

Dear Mr. Strawderman:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, I hereby request the following records:

1. All correspondence exchanged between the Central Intelligence Agency (CIA) and the American Civil Liberties Union (ACLU) pertaining to legislation to amend the Freedom of Information Act in the 97th and 98th Congresses.
2. All documents pertaining in any way to any discussions or negotiations between the CIA and the ACLU in regard to S. 1324 and H.R. 5164, both introduced in the 98th Congress.
3. All documents which reflect in any way the impact which S. 1324 and/or H.R. 5164 would have on pending FOIA litigation against the CIA.
4. All documents which reflect in any way the impact which S. 1324 and/or H.R. 5164 would have on (a) pending FOIA requests not yet in litigation, and (b) the CIA's backlog of FOIA requests.

I ask that you expedite this request. The information which I seek is needed in connection with congressional consideration of S. 1324 and H.R. 5164. H.R. 5164 is to be voted on by the House of Representatives when it returns from its current recess. Accordingly, it is urgent that this request be processed immediately upon receipt.

Sincerely yours,

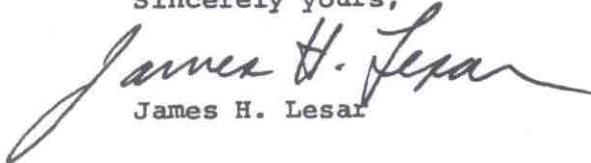

James H. Lesar

Exhibit 4